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10/586,733	07/21/2006	Atsushi Matsutani	293205US8PCT	5995

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EXAMINER	
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ART UNIT	PAPER NUMBER
2618	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/586,733	MATSUTANI, ATSUSHI	
	Examiner	Art Unit	
	Perez M. Angelica	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 July 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/21/06, 12/18/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 9 and 10 Claim 16 is rejected under 35 U.S.C. 101 because the claimed invention is not supported by either an asserted utility or a well established utility.

Claim Rejections - 35 USC § 112

3. Claims 9 and 10 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention. The claim fail to fall within a statutory category of invention, the claim is directed to a program. It is directed to a program itself and not to a process occurring as a result of executing the program, a machine programmed to operate in accordance with a program nor a manufacture structurally and functionally interconnected with the program in a manner in which enables the program to act as a computer component and realize its functionality.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 6 recites the limitation "the ranking" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Information Disclosure Statement

6. The information disclosure statement filed 7/21/06 and 12/18/07 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Naomi, Misawa (Naomi, JP Pub. No.: 2002-208900).

Regarding claim 1, Naomi teaches of a broadcast frequency detection system comprising (paragraph 16, where "extraction…means" corresponds to "detection"; where in the art, detection is the extraction of information. Paragraph 18, where "Ranking ranking, the number of times of broadcast" corresponds to "frequency", thus, detection of broadcast frequency and where the system can include one or several elements in the broadcasting system 1): communication means for transmitting request information to request broadcast contents information to a storage device for storing broadcast contents information including the titles of the broadcast contents that will be

broadcasted by one or more broadcasting stations (paragraphs 13, extraction and processing means…reads the broadcasting data stored in data server 11…and provides the data according to user's request. Where the user request broadcast content and where the request is communicated to the "data server" by intermediary "extraction and processing means". Paragraph 16, "track name" corresponding to "titles"), and also receiving the broadcast contents information transmitted from the storage device responding to the above request information (paragraphs 19-20, where the information is distributed to and received by the users according to their request and where the data was transmitted from database 11 to the "extraction and processing means 10", then it is transmitted to the users that requested it through "internet wide area network 12", see figure 1, see also bidirectional (arrows) communication); and detection means for detecting broadcast frequency by the broadcast contents in the broadcast contents information received by the communication means (paragraph 16, where "extraction…means" corresponds to "detection"; where in the art, detection is the extraction of information. Paragraph 18, where "Ranking ranking, the number of times of broadcast" corresponds to "frequency", where the detection of content received/requested by users is done).

Regarding claim 2, Naomi teaches all the limitations of claim 1. Naomi further teaches where the detection means generates the ranking of the broadcast contents in descending order of the broadcast frequency of the broadcast contents (figure 4, where in columns 1 and 2, the number of times of the specific song requested/played shown in

column 2, where it can be seen that the arrangement is done in a descending order; e.g., 113, 84, 71, 71, 68, 66 and 59 with corresponding rankings 1-8).

Regarding claim 3, Naomi teaches all the limitations of claim 1. where search condition setting means for setting at least either one of the broadcasting period, the title and the broadcasting station name of a broadcast program as a search condition is further included (paragraphs 15-17; where SQL database computer language allows the storing/retrieval/management of data in a searchable format, at least, according to "track name" corresponding to "title"; thus , setting the search condition according to title); and the communication means transmits request information to request broadcast contents information corresponding to the search condition set by the search condition setting means (paragraphs 13 and 15-17, extraction and processing means...reads the broadcasting data stored in data server 11...and provides the data according to user's request. Where the user request broadcast content and where the request is communicated to the "data server" by intermediary "extraction and processing means" ; and where SQL database computer language allows the storing/retrieval/management of data in a searchable format, at least, according to "track name" corresponding to "titles"), from the storage device that stores broadcast contents information including the broadcasting time and date and the titles of the broadcast contents that will be broadcasted by one or more broadcasting stations by the above broadcast contents (database 11, in figure 1 stores broadcast content information according to "time" as shown in figure 3, column 1; "date" and "title" as shown in figure 9, columns 1 and 3, respectively. See also paragraph 18, "the ranking according to each broadcasting

station". In addition, given a broad interpretation, the rankings are those that will be broadcasted to the requesting users), and also receives the broadcast contents information transmitted from the storage device corresponding to the above request information (paragraphs 13 and 15-17, extraction and processing means…reads the broadcasting data stored in data server 11…and provides the data according to user's request, where when a request is made, the "extraction and processing" device "receives", in response to the request, the information requested, so that it can further be processed and transmitted to the requesting users).

Regarding claim 4, Naomi teaches all the limitations of claim 1. where search condition setting means for setting at least either one of the broadcasting period, the title and the broadcasting station name of a broadcast program as a search condition is included (paragraphs 15-17; where SQL database computer language allows the storing/retrieval/management of data in a searchable format, at least, according to "track name" corresponding to "titles"); the communication means transmits request information to request broadcast contents information from the storage device that stores broadcast contents information including the title of the broadcast content being broadcasted by one or more broadcasting stations (paragraph where the database 11 in figure 1 stores broadcast content information according to "time" as shown in figure 3, column 1; "date" and "title" as shown in figure 9, columns 1 and 3, respectively. See also paragraph 18, "the ranking according to each broadcasting station"), and also receives the broadcast contents information transmitted from the storage device responding to the above request information, in the communication (paragraphs 13 and

15-17, extraction and processing means…reads the broadcasting data stored in data server 11…and provides the data according to user's request, where the extraction and processing means 10, passes along the requests to the database, where when a request is made, the "extraction and processing" device "receives" the information requested, so that it can be transmitted to the requesting users through the "internet wide area network"); and the detection means detects broadcast frequency by the broadcast contents (paragraph 16, where "extraction…means" corresponds to "detection"; where in the art, detection is the extraction of information. Paragraph 18, where "Ranking ranking, the number of times of broadcast" corresponds to "frequency"), based on broadcast contents information corresponding to the search condition set by the search condition setting means in the broadcast contents information received by the communication means (paragraphs 13 and 15-17, extraction and processing means…reads the broadcasting data stored in data server 11…and provides the data according to user's request, the extraction and processing means 10, pass along the requests to the database; and where SQL database computer language allows the storing/retrieval/management of data in a searchable format, at least, according to "track name" corresponding to "titles").

Regarding claim 7, Naomi teaches of a broadcast frequency detecting method comprising (paragraph 16, where "extraction…means" corresponds to "detection"; where in the art, detection is the extraction of information. Paragraph 18, where "Ranking ranking, the number of times of broadcast" corresponds to "frequency"; where the method is described through the reference): the communication step of transmitting

request information to request broadcast contents information to a storage device for storing broadcast contents information including the titles of the broadcast contents that will be broadcasted by one or more broadcasting stations (paragraphs 13, extraction and processing means…reads the broadcasting data stored in data server 11…and provides the data according to user's request. Where the user request broadcast content and where the request is communicated to the "data server" by intermediary "extraction and processing means". Paragraph 16, "track name" corresponding to "titles"), and also receiving the broadcast contents information transmitted from the storage device responding to the above request information (paragraphs 19-20, where the information is distributed to and received by the users according to their request and where the data was transmitted from database 11 to the "extraction and processing means 10", then it is transmitted to the users that requested it through "internet wide area network 12", see figure 1, see also bidirectional (arrows) communication); and the detection step of detecting broadcast frequency by the broadcast contents in the broadcast contents information received in the communication means (paragraph 16, where "extraction…means" corresponds to "detection"; where in the art, detection is the extraction of information. Paragraph 18, where "Ranking ranking, the number of times of broadcast" corresponds to "frequency", where the detection of content received/requested by users is done).

Regarding claim 9, Naomi teaches of a broadcast frequency detecting program to make an information processing unit execute (paragraph 15, where "data processing" of the method requires software for its execution and where software executes written

computer programs. E.g., of computer programmed languages "Excel", HTML, SQL, etc.): the communication step of transmitting request information to request broadcast contents information to a storage device for storing broadcast contents information including the titles of the broadcast contents that will be broadcasted by one or more broadcasting stations (paragraphs 13, extraction and processing means...reads the broadcasting data stored in data server 11...and provides the data according to user's request. Where the user request broadcast content and where the request is communicated to the "data server" by intermediary "extraction and processing means". Paragraph 16, "track name" corresponding to "titles"), and also receiving the broadcast contents information transmitted from the storage device responding to the above request information (paragraphs 19-20, where the information is distributed to and received by the users according to their request and where the data was transmitted from database 11 to the "extraction and processing means 10", then it is transmitted to the users that requested it through "internet wide area network 12", see figure 1, see also bidirectional (arrows) communication); and the detection step of detecting broadcast frequency by the broadcast contents in the broadcast contents information received in the communication means (paragraph 16, where "extraction...means" corresponds to "detection"; where in the art, detection is the extraction of information. Paragraph 18, where "Ranking ranking, the number of times of broadcast" corresponds to "frequency", where the detection of content received/requested by users is done).

Regarding claim 9,: the communication step of transmitting request information to request broadcast contents information to a storage device for storing broadcast

contents information including the titles of the broadcast contents that will be broadcasted by one or more broadcasting stations, and also receiving the broadcast contents information transmitted from said storage device responding to the above request information; and the detection step of detecting broadcast frequency by said broadcast contents in the broadcast contents information received in said communication step.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 5-6, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naomi in view of Ikuo et al. (Ikuo, JP Pub. No.: 2002-342351).

Regarding claim 5, Ikuo teaches of a broadcast frequency detection system comprising information: (paragraph 51, where the "comprehensive broadcast database" recognizes "how many times the specific musical piece was broadcast in the specific period". See figure 1, "comprehensive broadcast database 130" being part of the broadcasting system) a storage medium for storing broadcast contents information including the broadcasting time and the titles of the broadcast contents that will be broadcasted by one or more broadcasting stations by the above broadcast contents (paragraphs 28, 51 and 58, where the "comprehensive broadcast database" stores the "time" and the "musical piece information" that includes the "title" of the musical piece);

receiving means for receiving search condition information to specify at least either one of the broadcasting period, the title and the broadcasting station name of a broadcast program as a search condition, from an external device (paragraphs 44 and 54, "musical piece information" and where the information is provided to the "recording company", publishing company", "advertising agency" that sent a condition request); search means for searching the storage medium for broadcast contents information corresponding to the search condition (paragraph 45, "generated in a stage can be searched"; thus "searching the storage medium"), based on the search condition information received by the receiving means (paragraph 45, where the database "searches" according to what is requested (received request) and where the "search condition" can be information such as, title, date, frequency, etc.); detection means for detecting broadcast frequency by the broadcast contents, in the broadcast contents information that was obtained as the search result by the search means (paragraphs 51 and 54; "number of times"); and transmission means for transmitting information based on the broadcast frequency by the broadcast contents detected by the detection means, to the external device (paragraphs 54 and 56; where the information is transmitted through the computer network to the "recording company", publishing company", "advertising agency").

Although implicit, Ikuo does not explicitly teach of broadcasting date.

Naomi teaches of broadcasting date (figure 3, column 1 of the table).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Naomi's broadcasting date with Ikuo's broadcasting

frequency detection information in order to have a more complete table with information available regarding broadcasting frequency of content.

Regarding claim 8, a broadcast frequency detecting method comprising (paragraph 51, where the "comprehensive broadcast database" recognizes "how many times the specific musical piece was broadcast in the specific period"; where the method is described throughout the reference): the storage step of storing broadcast contents information including the broadcasting time and date and the titles of the broadcast contents that will be broadcasted by one or more broadcasting stations in a storage medium, by the above broadcast contents (paragraphs 28, 51 and 58, where the "comprehensive broadcast database" stores the "time" and the "musical piece information" that includes the "title" of the musical piece); the receiving step of receiving search condition information to specify at least either one of the broadcasting period, the title and the broadcasting station name of a broadcast program as a search condition, from an external device; the search step of searching the storage medium for broadcast contents information corresponding to the search condition, based on the search condition information received in the receiving step (paragraph 45, where the database "searches" according to what is requested (received request) and where the "search condition" can be information such as, title, date, frequency, etc.); the detection step of detecting broadcast frequency by the broadcast contents in the broadcast contents information that was obtained as the search result in the search step (paragraphs 51 and 54; "number of times"); and the transmission step of transmitting information based on the broadcast frequency by the broadcast contents detected in the

detection step to the external device (paragraphs 54 and 56; where the information is transmitted through the computer network to the "recording company", publishing company", "advertising agency").

Although implicit, Ikuo does not explicitly teach of broadcasting date.

Naomi teaches of broadcasting date (figure 3, column 1 of the table).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Naomi's broadcasting date with Ikuo's broadcasting frequency detection information in order to have a more complete table with information available regarding broadcasting frequency of content.

Regarding claim 6, Ikuo and Naomi teach all the limitations of claim 5. Naomi further teaches where; the detection means generates the ranking of the broadcast contents in descending order of the broadcast frequency of the broadcast contents (figure 4, where in columns 1 and 2, the number of times of the specific song requested/played shown in column 2, where it can be seen that the arrangement is done in a descending order; e.g., 113, 84, 71, 71, 68, 66 and 59 with corresponding rankings 1-8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Naomi's broadcasting ranking's arrangement with Ikuo's broadcasting frequency detection information in order to have a traditional ordering of rankings where the first place goes on the top followed by the second to first and third and so forth.

Regarding claim 10, a broadcast frequency detecting program to make a information processing unit execute: the storage step of storing broadcast contents information including the broadcasting time and date and the titles of the broadcast contents that will be broadcasted by one or more broadcasting stations in a storage medium, by the above broadcast contents; the receiving step of receiving search condition information to specify at least either one of the broadcasting period, the title and the broadcasting station name of a broadcast program as a search condition, from an external device; the search step of searching said storage medium for broadcast contents information corresponding to said search condition., based on said search condition information received in said receiving step; the detection step of detecting broadcast frequency by said broadcast contents, in the broadcast contents information that was obtained as the search result in said search step; and the transmission step of transmitting information based on said broadcast frequency by said broadcast contents detected in said detection step, to said external device.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angelica Perez whose telephone number is 571-272-7885. The examiner can normally be reached on 6:00 a.m. - 2:30 p.m., Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on (571) 272-4177. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either the PAIR or Public PAIR. Status information for unpublished applications is available through the Private PAIR only. For more information about the pair system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Information regarding Patent Application Information Retrieval (PAIR) system can be found at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2600's customer service number is 703-306-0377.

/Perez M. Angelica/

Examiner, Art Unit 2618